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BUSINESS TRANSFERS AND TAKING OVER A UI ACCOUNT

A. Transfer of Business

A transfer of business occurs any time a business activity or business asset is transferred outside of the normal course of doing business.

The usual way that a business is transferred is through a sale, lease, reorganization, merger or consolidation. However, a business can also be transferred through foreclosures, inheritances and bankruptcy.

In any transfer, the transferor is the seller or former owner/operator of the business being transferred and the transferee is the buyer or new owner/operator of the business.

It is not necessary for a transfer to occur directly between the former owner/operator and the new owner/operator. Third parties such as landlords, financial institutions and the courts are often intermediaries for transfers.

Some common situations that ARE NOT a transfer of business;

- Sale of corporate stock.
- Corporate name change.
- Sale of assets in the ordinary course of business.
- Transfer of employees only or transfer of payroll function only.
- A corporation changing from or to Subchapter S status.

A transfer of business may have important consequences for your business's UI tax rate and reserve account. The impact can be positive if you take over the UI account of a business with a low rate. The impact can be negative if you take over the account of a business with a high tax rate.

When you transfer or acquire a business, you must let us know within 30 days of the sale/acquisition. Notice can be done by telephone, by completing a Report of Business Transfer, Form UCT-115, or by other written notice with information about the transfer.

B. Taking Over a UI Account

Successorship occurs when all or a portion of the former owner's UI account is transferred to the new owner due to a transfer of all or a portion of the business. Successorship is mandatory when related interests are involved and is optional for unrelated interests. See D. **When You Must Take Over the UI Account Experience of the Former Owner/Operator.**

When successorship occurs, the employer who has taken over the former owner's/operator's account is referred to as the "successor". The employer whose UI account (and business activity) was taken over is referred to as the "predecessor". The words successorship, successor and predecessor are used in the legal language of the UI law.

If you are acquiring an existing business, you may have a choice as to whether or not you take over the UI experience of the former owner/operator. The following sections give you more information regarding business transfers and taking over the former owner's/operator's UI account.

C. UCT-115, Report of Business Transfer Form

The Report of Business Transfer (Example 16) is the primary form used by the department to obtain information on business transfer. The form is generally requested from both parties. The form can also be used by the new owner/operator to make a written application to take over the UI account of the former owner/operator.

The sections on the forms are numbered and labeled. Following is a brief description of these sections.

1. Former Owner/Operator

This information will identify the former owner/operator. It is important to list the current mailing address and telephone number, which may have changed since the transfer. When completing the form, if there is some information which you do not know, enter "unknown" in the space or leave it blank.

2. New Owner/Operator

This information identifies the new owner or operator who acquired the business. It is important to list the names and ownership percentages of the individuals who currently own, manage or control the business.

When completing the form, if there is some information which you do not know enter "unknown" in the space or leave it blank.

3. Relationship Between Parties

It is necessary that you compare the former ownership with the current ownership and indicate if there are any common owners or any that are related through immediate family. See the examples identified in the questions.

If there is no relationship or common interest at all between the parties, then the new owner/operator should complete Section 5, Option of New Owner/Operator of the form. The new owner/operator can apply to take over the UI experience of the former owner/operator or can decide not to apply. While the application to take over the UI account does not necessarily have to be done when this form is completed, there is a deadline for making a timely application. The deadlines are shown in Section 5.

4. Effective Dates

Enter the effective or legal date when the new owner/operator has control over the business transferred. This is known as the transfer date.

5. Option for New Owner/Operator

This section provides the new owner the option to acquire the UI experience of the previous owner, elect not to acquire the experience or to request additional information before making a decision.

6. Method of Transfer

Provides a checklist of the methods of selling/acquiring a business (sale, lease, reorganization, merger, etc.).

7. Assets Transferred

Provides a checklist of assets sold/acquired (real estate, inventories, accounts receivable, etc.).

8. Continuation of Business

This section asks whether the new owner/operator continued the business without interruption and in the same location. If there was a period of time when the business was not operated or there has been a change of business location, please provide additional information.

9. Number of Employees

Asks the question how many employees worked in the transferred business prior to the transfer and how many employees continued with the new owner/operator.

10. Identify Nature of Business Transferred

This could be information about the method of transfer (third party transfers, leases, reorganizations, foreclosures, estates and receiverships) or information about which assets were transferred and which were not, or information describing that two or more transfers took place and the dates of those transfers.

11. Total or Partial Transfer

Indicate whether the transfer was total or partial.

If all the former owner's/operator's business activity has been transferred and they will no longer have payroll, the transfer is total. In a total transfer, the former owner/operator must tell us if there will be payroll after the transfer date for closing of accounts and liquidation of assets.

If the former owner/operator will continue to operate some portion of business they

operated before the transfer, the transfer is considered partial.

12. Required Signature

This form can be submitted on behalf of either the former or new owner/operator. In some cases the form can be submitted on behalf of both people. The form should be signed by the person submitting the form or their representative such as an attorney or an accountant.

See following pages for copy of UCT-115.
(Example 16)

Report of Business Transfer (Sale/Acquisition/Reorganization)

Division of Unemployment Insurance
P.O. Box 7942, Madison, WI 53707
Telephone: (608) 261-6700
Fax: (608) 267-1400
<http://www.dwd.state.wi.us/uitax/default>

Under Wisconsin's Unemployment Insurance (UI) Law **EXAMPLE16**

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m)]. The purpose of this report is to provide information about changes to the ownership/operators of a business (Section 108.16(8), Wisconsin Statutes). The provision of your social security number is voluntary. Failure to provide it may result in an information processing delay.

1. Former Owner/Operator

Employer's Legal Name John Q. Employer	WI UI Account Number 123456-000-9	Telephone Number (000) 000-0000
Trade Name Acme Widgets	Federal ID Number 12-3456789	Form of Ownership (Check one) <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Co <input type="checkbox"/> Corporation <input type="checkbox"/> Other _____
Current Mailing Address (Street or PO Box, City, State, Zip Code) 1020 Main Ave. Anywhere, WI 55555-5555		
Physical Location of Transferred Business Same		
List Names of Partners, Members or Stockholders John Q. Employer	Social Security Number 123-45-6789	Ownership Percentage of Each 100%

2. New Owner/Operator

Employer's Legal Name John Q. Inc.	WI UI Account Number	Telephone Number (111) 111-1111
Trade Name Acme Widgets	Federal ID Number 98-7654321	Form of Ownership (Check one) <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Co <input type="checkbox"/> Corporation <input type="checkbox"/> Other _____
Current Mailing Address (Street or PO Box, City, State, Zip Code) 1020 Main Ave. Anywhere, WI 55555-5555		
List Names of Partners, Members or Stockholders John A. Employer Jane R. Employer	Social Security Number 123-45-6789 987-65-4321	Ownership Percentage of Each 50% 50%

3. Relationship Between Parties in 1 and 2 Above

Are the parties the same or related (i.e., married; parent/child; common partners/stockholders/officers; parent/subsidiary?)	
<input checked="" type="checkbox"/> Yes	If Yes, Identify the relationships(s) Same owners
<input type="checkbox"/> No	

4. Effective Dates

Date Transfer Became Effective	MO.	DAY	YR.	Business LAST operated by FORMER OWNER/OPERATOR	MO.	DAY	YR.	Business FIRST operated by NEW OWNER/OPERATOR	MO.	DAY	YR.
	01	01	02		12	31	01		01	01	02

5. Option for New Owner/Operator

You may have an option to acquire the UI experience of the former owner. An application to acquire this experience must be filed by the appropriate due date (see chart to the right). Check one of the following statements: <input checked="" type="checkbox"/> This is an application to acquire the UI account experience. <input type="checkbox"/> New owner does not want to acquire the account experience. <input type="checkbox"/> Request additional information about this option.	If the date of change is:	You must apply by:
	Jan. 1 to March 31	July 31
	April 1 to June 30	Oct. 31
	July 1 to Sept. 30	Jan. 31
	Oct. 1 to Dec. 31	April 30

UCT-115 (R. 12/2003) This Form Must Be Completed On Both Sides And Signed Before Mailing

6. Method of Transfer

EXAMPLE 16 - CONTINUED

<input type="checkbox"/> Sale	<input type="checkbox"/> Foreclosure	<input checked="" type="checkbox"/> Reorganization (Change of Legal Form)	<input type="checkbox"/> Management Contract
<input type="checkbox"/> Lease	<input type="checkbox"/> Cancellation of Lease	<input type="checkbox"/> Merger or Consolidation	<input type="checkbox"/> Sale of Corporate Stock
<input type="checkbox"/> Inheritance	<input type="checkbox"/> Bankruptcy Sale	<input type="checkbox"/> Receivership	<input type="checkbox"/> Other _____

7. Assets Transferred

<input type="checkbox"/> Real Estate	<input type="checkbox"/> Machinery & Equipment	<input type="checkbox"/> Franchises & Licenses	<input type="checkbox"/> None
<input type="checkbox"/> Inventories	<input type="checkbox"/> Furniture & Fixtures	<input type="checkbox"/> Goodwill	<input checked="" type="checkbox"/> Other all aspects of the business
<input type="checkbox"/> Contracts	<input type="checkbox"/> Accounts Receivable	<input type="checkbox"/> Customer Lists	

8. Continuation of Business

Has the new owner/operator continued to operate the same business activity:	Without interruption?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	In the same location?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If either answer is No, explain fully and give address of new location

9. Number of Employees

How many employees worked in the TRANSFERRED BUSINESS just prior to transfer?	How many employees continued with the new/owner operator?
<u>5</u>	<u>5</u>

10. Identify Nature of Business Transferred

What specific business activity was transferred?

Incorporated the sole proprietorship

11. Total or Partial Transfer

<input checked="" type="checkbox"/> Total transfer of former owner/operator's Wisconsin business operations		
Will the former owner/operator continue to have payroll or employees after the transfer date? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes, explain why		
AND estimate last employment date		
<input type="checkbox"/> Partial transfer of former owner/operator's Wisconsin business operations		
Type of Business Kept by Former Owner/Operator	Trade Name	Number of Employees Kept
Business Location (Street, City, State, Zip Code)	Estimate the percentage of the former owner/operator's defined (taxable) payroll incurring in the TRANSFERRED portion during the twelve-month period immediately preceding the transfer.	
	_____%	

12. Required Signature

Name of Contact Person John Q. Employer	Telephone Number (111) 111-1111	Submitted on behalf of: <input type="checkbox"/> Former Owner/Operator <input type="checkbox"/> New Owner/Operator <input checked="" type="checkbox"/> Both
Signature(s) <i>John Q. Employer</i>	Date Signed 6/17/02	
<i>Jane R. Employer</i>	6/17/02	

UCT-115 (R. 12/2003)

D. When You Must Take Over the UI Account Experience of the Former Owner/Operator

If a transfer occurs between employers that are owned, managed or controlled by similar interests or members of the same immediate family, taking over the UI account experience of the former owner/operator is mandatory. Some examples are a sole proprietor incorporating his or her business, a subsidiary corporation merging with the parent, and a person transferring a business to a spouse, child or parent or a seller and a buyer who have common ownership or control.

If a transfer occurs between employers that are owned, managed or controlled by unrelated interests, taking over the UI account experience of the former owner/operator is optional. To qualify for this option, the new owner/operator must file a written application by the contribution report deadline for the quarter following the quarter in which the transfer occurred.

Application Deadline:

If date of change is	You must apply by:
Jan. 1 to March 31	July 31
April 1 to June 30	Oct. 31
July 1 to Sept. 30	Jan. 31
Oct. 1 to Dec. 31	April 30

Because of this application deadline, it is important that employers notify us immediately of transfers and acquisitions of business or assets.

E. Effects of Taking Over a UI Account

- The former owner's/operator's (positive or negative) UI account balance is transferred to the new owner/operator;
- The former owner's/operator's tax rate(s) and rate factors are transferred to the new owner/operator;
- The former owner/operator's reported payroll for meeting the taxable wage base in the transfer year is transferred to the new owner/operator.

- Any future benefits based on employment with the former owner/operator are charged to the new owner/operator; and
- Both the former owner/operator and new owner/operator are responsible for any outstanding tax liability of the former owner/operator.

F. UI Tax Rates If You Take Over An Account

- A new owner/operator who takes over the UI account of the former owner/operator and is not already an employer under UI law, is assigned the tax rate and tax rate factors of the former owner/operator;
- A new owner/operator who is not already an employer under the UI law and who takes over two or more UI accounts at the same time, is assigned a tax rate based on the combined tax rate factors of each of the former owners/operators; and
- A new owner/operator who is already an employer under the UI law keeps the UI tax rate of its original business for the quarter in which the transfer took place. Beginning with the first full quarter after the date of transfer, the tax rate will be based on the combined rate factors of both employers. This may require the assignment of a new UI account number for the combined businesses.

G. Becoming a Newly Covered Employer Without Taking Over the UI Account of the Former Owner/Operator

If you are a new owner/operator of a business but are **not** taking over the UI account of the former owner/operator, and are **not** already an employer under the UI law, you become an employer under the Wisconsin UI law as of the date of the transfer.

As a newly covered employer, you will have all other aspects of a new UI employer including:

- The tax rate for new employers for the first three years.

- The first UI tax report deadline, which is:
 - ✓ The deadline of the quarter following the quarter in which the employer became covered; or
 - ✓ January 31, for those employers who became covered in the fourth quarter of the year.

To obtain more information on business transfers and taking over the UI account of the former owner/operator, contact us at:

E-mail: taxnet@dwd.state.wi.us

Internet:
<http://dwd.wisconsin.gov/uitax>

or

Bureau of Tax & Accounting
 Division of Unemployment Insurance
 P.O. Box 7942
 Madison, WI 53707

or

Telephone: 608-261-6700

Fax: 608-267-1400

Deaf, hearing or speech-impaired callers may reach us through WI TRS.